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08/23/19
09:18 AM

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Investigation on the Commission's Own Motion into the Maintenance, Operations and Practices of Pacific Gas and Electric Company (U39E) with Respect to its Electric Facilities; and Order to Show Cause Why the Commission Should not Impose Penalties and/or Other Remedies for the Role PG&E's Electrical Facilities had in Igniting Fire in its Service Territory in 2017.

Investigation 19-06-015

ASSIGNED COMMISSIONER'S SCOPING MEMO AND RULING

This scoping memo and ruling sets forth the category, issues to be addressed, and schedule of the proceeding pursuant to Public Utilities (Pub. Util.) Code § 1701.1 and Article 7 of the Commission's Rules of Practice and Procedure.

1. Procedural Background

This Order Instituting Investigation (OII) initiating this proceeding was issued by the California Public Utilities Commission (the Commission) on June 27, 2019. A telephonic status conference was held on July 29, 2019 to address the schedule and party compliance with the OII's schedule and to ensure the parties understand the need to comply with Commission Rules of Practice and Procedure as to filing and service of documents. The Commission's Safety Enforcement Division (SED) was directed to serve the proceeding service list with notice of availability of the redacted SED Fire Report by e-mail ruling. Pacific Gas and Electric Company (PG&E) was directed via e-mail ruling to

provide a confidential copy of the SED Fire Report and attachments to the assigned Administrative Law Judge (ALJ) no later than July 31, 2019 with a motion to file confidential information under seal.

A prehearing conference (PHC) was held at the Commission offices on August 13, 2019 to discuss the service list, motions for party status, scope and schedule for the proceeding. The parties discussed schedule implications concerning PG&E's bankruptcy proceeding, and Assembly Bill (AB) 1054 (Holden, 2019), the Wildfire Fund legislation. PG&E and SED stated that they had begun settlement discussion and requested a stay of discovery until September 30, 2019. SED stated that it would likely be seeking to include the Lobo Fire and McCourtney Fire in the scope of the proceeding, as well as information regarding the 2018 Camp Fire. Public Advocates, The Utility Reform Network (TURN), Western States Petroleum Association, and California Coalition of Utility Employees (CUE) were granted party status in the proceeding. TURN and Public Advocates requested that PG&E provide a brief on the issue of how the bankruptcy impacts this OII.

The final date to appeal the proceedings categorization as adjudicatory was July 8, 2019. PG&E filed its response to the OII on July 29, 2019. Responses on the scope and issues in the preliminary scoping memo set forth in the OII were due July 29, 2019. Replies to comments on issues in the preliminary scoping memo set forth in the OII were due August 8, 2019. The OII also directed PG&E to provide Reports in response to questions set forth in Attachment B to the OII. The PG&E Response to Attachment B Report was to be filed and served by August 5, 2019. PG&E requested and was granted an extension to provide responses to a portion of the questions in Attachment B no

later than August 23, 2019 with the remainder of the responses provided by August 5, 2019.

The Commission via the OII directed PG&E to take the following immediate actions and provide the following information within 30 days of the issuance of the OII:

- Describe its policies and procedures for the retention of PG&E's electric facility records (distribution and transmission).
- Certify that all PG&E personnel, contractors and subcontractors performing vegetation management work, including pre-inspection and enhanced inspection, have at least two years' experience in line clearance tree pruning work. If there are personnel, contractors or subcontractors who do not possess the requisite experience, PG&E shall explain why these individuals were permitted to perform vegetation management work.
- Develop and submit a plan to ensure that all Consulting Utility Foresters have an Associate degree in forestry, arboriculture or a related field, or other suitable qualifications.
- Identify Senior Officer responsible for corrective actions and provide an affidavit under penalty or perjury that the stated corrective actions have taken place.

PG&E was also directed within 30 days of the issuance of this OII to file an application addressing development of an open source, publicly available mobile app that allows a Geographic Information System-equipped phone to send pictures of utility infrastructure to an asset management system/database maintained by PG&E. Application 19-07-019 was filed on July 29, 2019.

After considering the OII, Respondent PG&E responses, SED responses, other party responses, Joint PHC statement, party comments during the PHC,

and filings in the proceeding, I have determined the schedule and issues to be addressed in this proceeding as set forth below.

2. Issues

Based on the OII, the pleadings filed to date, and discussions at the PHC, the issues concerning the 15 fires investigated by SED¹ to be addressed in this proceeding are as follows:

1. Did PG&E violate General Order (GO) 95 and/or Resolution E-4148 as identified in the SED Fire Report?
2. Did PG&E violate any provisions of the Pub. Util. Code, GO, Commission decision, or any other applicable regulations with respect to its maintenance and/or operation of its electric facilities as identified in this investigation?
3. What penalties should be imposed for any proven violation(s) found above pursuant to Pub. Util. Code §§ 701, 2107 and 2108?
4. What other remedies or corrective actions should be imposed in response to any proven violation(s) found above pursuant to Pub. Util. Code §§ 701, 2107 and 2108?
5. What if any systemic issues contributed to ignition of the wildfires at issue in this OII? Identify issues and/or systems that could be put in place to prevent future problems that could ignite wildfires. Identify related proceedings where the issues and systems identified (supra) should be further considered or implemented.

Table 1 attached to this scoping memo as Attachment A summarizes SED's determinations as to whether it found violations of GO 95 or Resolution E-4184 for each of the fire investigations. Pursuant to Pub. Util. Code §§ 2107 and 2108,

¹ SED has stated that it will be filing a request to expand the scope of the proceeding to include the Lobo Fire, the McCourtney Fire, and some or all of the 2018 Camp Fire.

the potential range of fines for a violation of law ranges from \$500 to \$100,000, with each day of occurrence constituting a separate violation.

Additionally, SED has noted for the record (both at the telephonic status conference and the PHC) that it intends to file a motion requesting that the proceeding be expanded to include alleged violations concerning the Lobo Fire, McCourtney Fire, and the 2018 Camp Fire.

3. Need for Evidentiary Hearing

The parties are currently having discussions to see if settlement is a possibility as to the issues raised in this proceeding. PG&E has identified what it believes to be material facts in dispute, therefore at this time we determine that evidentiary hearings will be necessary.

PG&E and SED are directed to continue meeting at least once a week to address the potential for settlement and specific terms and conditions of settlement of the proceeding. PG&E and SED are to also meet with other parties to the proceeding regarding settlement, to discuss stipulated issues, and to identify legal issues that could be briefed in order to narrow the range of issues that would need to be litigated if this case is not settled. In order to not delay the proceeding, in the event that hearings are needed, discovery will not be stayed.²

4. Schedule

The following schedule is adopted here and may be modified by the ALJ as required to promote the efficient and fair resolution of the application:

² PG&E and SED requested that discovery be stayed until after September 30, 2019. Granting this request could delay the proceeding. The parties' request is denied.

EVENT	DATE
First Status Update	August 21, 2019
Status Update to include list of disputed legal issues to be briefed before evidentiary hearings	August 28, 2019
SED Response to PG&E Attachment B Report	September 27, 2018
SED and PG&E Joint Party Status Report	September 27, 2019
Brief Pre-Evidentiary Hearing Legal Issues	September 30, 2019
SED to file motion to include Lobo Fire, McCourtney Fire, and Camp Fire	October 1, 2019
Intervenor response to SED and PG&E Joint Party Status Report	October 3, 2019
Status Conference	October 4, 2019
Reply Brief Pre-Evidentiary Hearing Legal Issues	October 15, 2019
Discovery cut off	October 18, 2019 ³

There is no need to brief any additional issues at this time regarding the impact of the bankruptcy proceedings on this action. As I and Judge Houck indicated at the PHC, it is in the interest of all parties and the public for this matter to be settled or resolved as expeditiously as possible.

The final schedule for this proceeding has not yet been established, but at this time we preliminarily determine that the proceeding will be resolved within 12 months as required by Pub. Util. Code § 1701.2(i).

³ The discovery cutoff date applies to all discovery for the initial 15 fires referenced in the OII adopted on June 27, 2019. To the extent SED files a motion to include the Lobo Fire, McCourtney Fire, and the 2018 Camp Fire, I recognize that additional time will be needed by the parties to conduct discovery as to these three wildfires. Any additional time provided to the parties for discovery will be addressed in a ruling on the anticipated motion by SED requesting to add these three additional wildfires to the scope of the proceeding.

5. Category of Proceeding/*Ex Parte* Restrictions

This ruling confirms the Commission's preliminary determination that this is an adjudicatory proceeding. (I.19-06-015 issued June 27, 2019.) Accordingly, *ex parte* communications are prohibited pursuant to Rule 8.3(b) of the Commission's Rules of Practice and Procedure.

6. Public Outreach

Pursuant to Pub. Util. Code § 1711(a), I hereby report that the Commission sought the participation of those likely to be affected by this matter by noticing it in the Commission's monthly newsletter that is served on communities and businesses that subscribe to it and posted on the Commission's website. The PHC was also noticed in the Commission's daily calendar.

7. Intervenor Compensation

Pursuant to Pub. Util. Code § 1804(a)(1), a customer who intends to seek an award of compensation must file and serve a notice of intent to claim compensation by September 12, 2019, 30 days after the PHC.

8. Public Advisor

Any person interested in participating in this proceeding who is unfamiliar with the Commission's procedures or has questions about the electronic filing procedures is encouraged to obtain more information at <http://consumers.cpuc.ca.gov/pao> or contact the Commission's Public Advisor at 866-849-8390 or 415-703-2074 or 866-836-7825 (TTY), or send an e-mail to public.advisor@cpuc.ca.gov.

9. Service of Documents on Commissioners and Their Personal Advisors

Rule 1.10 requires only electronic service on any person on the official service list, other than the ALJ. A paper copy of documents is to be served on the ALJ.

When serving documents on Commissioners or their personal advisors, whether or not they are on the official service list, parties must only provide electronic service. Parties must NOT send hard copies of documents to Commissioners or their personal advisors unless specifically instructed to do so.

10. Assignment of Proceeding

President Clifford Rechtschaffen is the assigned Commissioner and Darcie L. Houck is the assigned ALJ and presiding officer for the proceeding.

IT IS RULED that:

1. The scope of this proceeding is described above.
2. A preliminary schedule for this proceeding is as set forth above.
3. PG&E and SED are directed to meet weekly and provide weekly status updates of the discussion starting Wednesday, August 21, 2019.
4. The weekly status report due August 28, 2019 is to include a list of legal issues that could be briefed and resolved before any evidentiary hearings are held that may resolve issues and limit the number of material facts in dispute.
5. A status conference is set for October 3, 2019.
6. Parties are to file a joint status report by September 27, 2019.
7. The September 27, 2019 status report is to address the following items:
 - a. Status of negotiations;
 - b. Stipulation of facts that could limit material facts in dispute;
 - c. If parties have not reached a point where they believe settlement is likely, SED and PG&E are to provide an agreed upon best estimate of the maximum dollar amount that PG&E may be fined if all allegations were to be sustained. If parties cannot agree upon a number each party is to propose their independent number and the basis for coming up with the estimate.

8. The Public Advocates Office request for PG&E to brief the impacts of the bankruptcy on the proceeding is denied.

9. PG&E and SED's request to stay discovery until September 30, 2019 is denied.

10. The presiding officer is Administrative Law Judge Darcie L. Houck

11. The category of the proceeding is Adjudicatory.

Dated August 23, 2019, at San Francisco, California.

/S/ CLIFFORD RECHTSCHAFFEN

Clifford Rechtschaffen
Assigned Commissioner